

**REMARKS**

This present Response is being filed in reply to the Office Action dated May 10, 2006. Claims 1, 3-5, 7,10-14 and 16 are pending in the application. Please charge any fees which may be due to Deposit Account No.10750/DEP5157/DAL, but do not include any payment of issue fees.

***Rejection Pursuant to 35 U.S.C. § 102(e)***

The Office Action rejected claims 1, 3-5, 7,10-14 and 16 pursuant to 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,206,881 to Frigg. Applicant respectfully traverses this rejection based on the following arguments.

**Response to June 10, 2005 Office Action**

The Office Action dated June 10, 2005, rejected claims 1-3, 5, 7, 8 and 10-13 pursuant to 35 U.S.C. § 102(b) as being anticipated by Frigg. Applicant's September 12, 2005, Response to the June 10, 2005 Office Action traversed this rejection and requested its withdrawal. The subsequent Office Action, dated November 8, 2005, rejected claims 1-3, 5, 7, 8 and 10-13 on new grounds, withdrawing the rejection of claims 1-3, 5, 7, 8 and 10-13 in view of Frigg, presumably because the Examiner agreed with the Applicant's arguments with respect to Frigg in the September 12, 2005, Response.

Now, the Examiner **again** rejects claims 1, 3-5, 7,10-14 and 16 as being anticipated by Frigg, without addressing Applicant's previous arguments with respect to Frigg. For this reason, Applicant objects to the subsequent rejection of claims 1, 3-5, 7,10-14 and 16 in view of Frigg. In addition, Applicant traverses the rejection of claims 1, 3-5, 7,10-14 and 16 in view of Frigg for the reasons set forth in Applicant's September 12, 2005, Response. These reason are reiterated below for the convenience of the Examiner.

**Independent Claims 1 and 7**

Independent claims 1 and 7 each recite a plate having at least one hole for receiving a bone anchor, the at least one hole including a plurality of concentric annular bores formed in

the plate. Frigg does not disclose at least one hole including a plurality of concentric annular bores, as recited in independent claims 1 and 7. To the contrary, Frigg describes a plate (1) with holes (3) that may be fitted with threads (8) that advantageously match the threads (9) or spiral structures on the bone screw head (5) (col.2 lines 22-26). The threads (8) (see FIG. 3) cannot anticipate the plurality of concentric annular bores as claimed by the applicants. *The Machinery's Handbook*, 26<sup>th</sup> edition, defines a thread as “a continuous and projecting helical ridge usually of uniform section on a cylindrical or conical surface.” In contrast, the term annular is defined as “shaped like or forming a ring.” *The American Heritage® Dictionary of the English Language, Fourth Edition* (2000). Because a thread is a continuous helical (or spiraling) structure and is not shaped like a ring nor forms a ring, threads cannot form a plurality of concentric annular bores. For at least this reason, Applicants do not consider the threads (8) disclosed in Frigg to anticipate the subject matter of independent claims 1 and 7. Therefore, Applicants respectfully request that the rejection of claims 1 and 7, and claims 3-5 dependant thereon, under 35 U.S.C. § 102(e) be withdrawn.

Independent claims 10 and 12

Independent claims 10 and 12 each recite a plate having at least one hole for receiving a bone anchor, the at least one hole having a generally stepped-shaped inner wall surface, a plurality of the steps of the inner wall surface having a generally annular peak. Frigg does not disclose a hole having a generally stepped-shaped inner wall surface that includes a plurality of steps having a generally annular peak. As discussed above, Frigg describes a plate hole (3) fitted with threads (8) for engaging matching threads (9) on the head (5) of the bone screw (4). As stated above, *The Machinery's Handbook*, 26<sup>th</sup> edition, defines a screw thread as “a continuous and projecting helical ridge usually of uniform section on a cylindrical or conical surface.” In contrast, the term annular is defined as “shaped like or forming a ring.” *The American Heritage® Dictionary of the English Language, Fourth Edition* (2000). Because a thread is a continuous helical (or spiraling) structure and is not shaped like a ring nor forms a ring, a thread cannot form a step having a generally annular peak. For at least this reason, Applicants do not consider the threads (8) disclosed in Frigg to anticipate the subject matter of independent claims 10 and 12. Therefore, Applicants

respectfully request that the rejection of claims 10 and 12, and claims 11, 13, 14 and 16 dependant thereon, under 35 U.S.C. § 102(e) be withdrawn.

**Conclusion**

In view of the remarks set forth above, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting the prosecution of the application, the Examiner is invited to call the undersigned at (508) 880-8488.

Respectfully submitted,

/ David A. Lane, Jr./  
David A. Lane, Jr.  
Registration No. 39,261  
Attorney for Applicant

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
Customer Number: 000027777

Date: August 9, 2006